

REMARKS

Claims 1-3 are pending in the application. The above remarks are considered by Applicants to overcome each objection and rejection raised by the Examiner and to place the application in condition for allowance. An early Notice of Allowance is therefore requested.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Gonzalez (U.S. Patent No. 6,685,729). The Examiner takes the position that Gonzalez discloses all the features recited in claims 1 and 2. Applicants respectfully disagree.

Gonzalez is directed to a process for treating aberrant sensory afferents and motor efferents including performing a singular sensory or motor function test, and identifying an area of dysfunction. A nerve root and pathway to the area of dysfunction, a structural or biochemical component of the dysfunction, vascular supply to the area of dysfunction, blood supply/lymphatic drainage for the area of dysfunction, and viscera associated with the area of dysfunction is identified. These areas are stimulated using the therapeutic device until retesting no longer detects any dysfunction. Neurological inhibition is identified by performing two or more sensory or motor function tests simultaneously. The therapeutic device is used to stimulate the area of dysfunction, spine and head until the neurological inhibitions is no longer detected.

Gonzalez discloses a probe that is positioned in the organ to be treated or is moved toward that area after a diagnostic examination has been carried out. The tissue selection is carried out by evaluating the stimulus response given by the tissue in question as the result of stimulus by different electric/electronic signals which are pre-adjusted and/or can be modulated.

Thus, neither an iterative process nor a continuous process can be discerned from the part of the description cited in the Office Action (See Column 5, Lines 34-41, and 50-67). Rather the citation shows that the neurological functions are tested by a combined test when there are no longer any physical and/or corporeal defects. In the event of disturbances, these disturbances are eliminated by the therapeutic action (Stimulation of the nerves) of the instrument until there no longer appear.

Gonzalez does not teach or suggest searching for defective tissue locations as recited in the claimed invention. In contrast to the disclosure of Gonzalez, in which it is attempted to regenerate the diseased tissue by stimulating the nerves leading to the diseased tissue region (See Figure 2A, reference number 32, and Column 5, Lines 60-65), the diseased tissue is excised by PEAK technology in the solution described by claimed invention. Moreover, Gonzalez fails to teach or suggest carrying out the corresponding therapeutic or surgical treatment by the same probe at the selected sight. The Office Action indicates that Column 5, Lines 22-30 recites this feature. Applicants respectfully disagree.

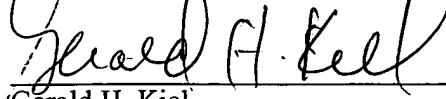
Gonzalez does not teach or suggest carryout out the corresponding therapeutic or surgical treatment by the same probe at the selected sight. Although, Gonzalez states that there is a need for a process for testing and identifying areas of dysfunction and correcting such dysfunctions which are less invasive, Gonzalez does not teach or suggest that the same probe carries out the therapeutic or surgical treatment at the selected sight. Therefore, Applicants request the withdrawal of the rejection of claims 1 and 2.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez in view of Zealear et al. (U.S. Patent No. 4,817,628). The Examiner takes the position that the combination of Gonzalez and Zealear teaches or suggests all the features recited in claim 3. Applicants respectfully disagree.

Since claim 3 is dependent upon claim 1, it is submitted that for at least the reasons mentioned above, claim 3 recites patentable subject matter. Accordingly, Applicants requests the withdrawal of the rejection of claim 3 under 35 U.S.C. 103(a).

In view of the above amendments and remarks, Applicants submit that claims 1-3 recite subject matter that is neither taught nor suggested by the applied references. Thus, for the reasons presented above, claims 1-3 are believed by Applicants to define patentable subject matter and should be passed to issue at the earliest possible time. A Notice of Allowance is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald H. Kiel", written over a horizontal line.

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